

Linda F. Cantor (CA Bar No. 153762)  
Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 13<sup>th</sup> Floor  
Los Angeles, California 90067  
Telephone: 310-277-6910  
Facsimile: 310-201-0760  
E-mail:lcantor@pszjlaw.com

Counsel for Weneta M.A. Kosmala, Chapter 7 Trustee  
for The Tulving Company, Inc.

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**SANTA ANA DIVISION**

In re:

THE TULVING COMPANY, INC., a  
California corporation,

Debtor.

Case No.: 8:14-bk-11492-ES

Chapter 7

**STIPULATION RE: (1) LIMITED  
OPPOSITION TO MOTION TO APPROVE  
AND AUTHORIZE THE DEBTOR TO ENTER  
INTO SUPPLEMENTAL CONSENT ORDER  
WITH THE UNITED STATES COMMODITY  
FUTURE TRADING COMMISSION [DKT.  
NO. 666]; AND (2) LIMITED OPPOSITION TO  
MOTION FOR ORDER (I) APPROVING COIN  
VALUATIONS AND DISTRIBUTION  
SCHEDULE OF ERROR COINS TO VICTIM/  
CREDITORS, AND (II) GRANTING  
RELATED RELIEF PURSUANT TO  
SECTIONS 105 AND 363 OF THE  
BANKRUPTCY CODE [DKT. NO. 667]**

This Stipulation is entered into by and among Weneta M.A. Kosmala, in her capacity as the  
duly appointed, authorized and acting chapter 7 trustee of the above captioned Debtor's estate (the  
"Trustee"), on the one hand, and interested parties Levon Gugasian and Armen Haig Gugasian (the  
"Gugasians"), on the other hand, through their counsel of record, in reference to the following facts:

**RECITALS**

**WHEREAS**, on March 9, 2016, the former chapter 7 trustee of the Debtor's estate filed  
Complaints for Avoidance and Recovery of Fraudulent Transfers (the "Complaints") against the

1 Gugasians, commencing Adversary Proceedings No. 8:16-ap-01083 and 8:16-ap-01084  
2 (collectively, the “Adversary Proceedings”); and

3 **WHEREAS**, on May 31, 2017 the Trustee filed and served the *Notice Of Motion and Motion*  
4 *For Order (A) Approving and Authorizing the Trustee and Debtor To Enter Into Supplemental*  
5 *Consent Order Assessing Restitution and Civil Monetary Penalty against Defendants The Tulving*  
6 *Company, Inc. and Hannes Tulving, Jr., (B) Authorizing Hannes Tulving, Jr. to Execute the*  
7 *Supplemental Consent Order With The United States Commodity Future Trading Commission On*  
8 *Behalf Of The Debtor, and (C) For Related Relief Pursuant To Sections 105 and 362* [Dkt. No.  
9 666] (the “Consent Order Motion”); and

10 **WHEREAS**, on June 1, 2017, the Trustee filed and served the *Notice Of Motion and Motion*  
11 *For Order (I) Approving Coin Valuations and Distribution Schedule Of Error Coins To Victim/*  
12 *Creditors, and (II) Granting Related Relief Pursuant To Sections 105 And 363 Of The Bankruptcy*  
13 *Code* [Dkt. No. 667] (the “Coin Distribution Motion”)<sup>1</sup>; and

14 **WHEREAS**, the Consent Order Motion seeks, *inter alia*, authorization for the Debtor to  
15 enter into a Supplemental Consent Order with the United States Commodity Future Trading  
16 Commission (“CFTC”) for the imposition of a civil monetary penalty of \$15,761,432 (plus post  
17 judgment interest) against the Debtor’s estate (the “Penalty”), subordinated to all general unsecured  
18 claims; and

19 **WHEREAS**, the Coin Distribution Motion seeks, *inter alia*, approval of the Professional  
20 Coin Grading Service valuation of the Error Coins and approval of the Distribution Schedule  
21 prepared by the Trustee’s financial advisors for the proposed allocation of specific Error Coins to  
22 Victim/Creditors on account of their claims; and

23 **WHEREAS**, on June 14, 2017, the Gugasians filed a Limited Opposition and Request for  
24 Hearing regarding the Consent Order Motion (the “Limited Opposition”). The Limited Opposition  
25 objects to the Consent Order Motion to the extent the Trustee is attempting to attribute the Penalty  
26  
27

28 <sup>1</sup> Terms not otherwise defined herein shall have the same meanings as ascribed to them in the Consent Order Motion and the Coin Distribution Motion, as applicable.

1 to support the contention in the Complaints that the Debtor was insolvent as of the dates of the  
2 transfers that are sought to be avoided in the Adversary Proceedings; and

3 **WHEREAS**, the Gugasians have also notified the Trustee that they oppose any  
4 determination of coin values in connection with the Coin Distribution Motion and any order thereon  
5 to the extent such value determination would be binding on the Gugasians for purposes of the  
6 Adversary Proceedings (the "Informal Opposition"); and

7 **WHEREAS**, the Trustee has confirmed that she is not seeking and will not seek to attribute  
8 the Penalty to support the contention of insolvency set forth in the Complaints, and

9 **WHEREAS**, the Trustee has also confirmed that (a) any valuation of the coins pursuant to  
10 the Coin Distribution Motion and any order thereon will not be binding on the Gugasians for  
11 purposes of the Adversary Proceedings, and (b) the Trustee and the Gugasians shall reserve their  
12 respective rights as to the coin values as of all dates for purposes of the Adversary Proceedings; and

13 **WHEREAS**, the Trustee and the Gugasians wish to resolve the Limited Opposition and the  
14 Informal Opposition, obviating the need for a hearing on the Consent Order Motion;

15 **NOW, THEREFORE, IT IS HEREBY STIPULATED** by and among the Trustee and the  
16 Gugasians as follows:

17 **STIPULATION**

18 1. The Trustee shall not attribute all or any portion of the Penalty to support the  
19 contention of insolvency set forth in the Complaints alleging that the Debtor was insolvent as of the  
20 dates of the transfers that are sought to be avoided in the Adversary Proceedings.

21 2. Any valuation of the coins pursuant to the Coin Distribution Motion and any order  
22 thereon will not be binding on the Gugasians for purposes of the Adversary Proceedings, and the  
23 Trustee and the Gugasians reserve their respective rights as to the coin values as of all dates for  
24 purposes of the Adversary Proceedings.

25 3. Upon entry of an order approving this Stipulation, (a) the Limited Opposition and  
26 request for a hearing on the Consent Order Motion shall be deemed withdrawn by the Gugasians,  
27 and (b) the Informal Opposition to the Coin Distribution Motion shall be withdrawn.  
28

1           4.       This Stipulation may be executed in counterparts, each of which may be transmitted  
2 by facsimile or email, and each of which shall be deemed an original, but all of which together shall  
3 constitute one instrument.

4           5.       The Court shall retain jurisdiction to hear any disputes arising from this Stipulation.

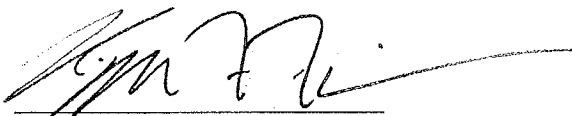
5  
6 Dated: June 28, 2017

PACHULSKI STANG ZIEHL & JONES LLP

7  
8  
9 By: /s/ Linda F. Cantor  
Linda F. Cantor  
Counsel for the Chapter 7 Trustee

10  
11 Dated: June 28, 2017

RUTAN & TUCKER, LLP

12  
13 By:   
14 Roger F. Friedman  
15 Richard K. Howell  
16 Gerard M. Mooney  
17 Caroline R. Djang  
18 Counsel for Interested Parties Levon Gugasian and  
19 Armen Haig Gugasian  
20  
21  
22  
23  
24  
25  
26  
27  
28

PACHULSKI STANG ZIEHL & JONES LLP  
ATTORNEYS AT LAW  
LOS ANGELES, CALIFORNIA

**PROOF OF SERVICE OF DOCUMENT**

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

**10100 Santa Monica Boulevard, 13<sup>th</sup> Floor, Los Angeles, California 90067**

A true and correct copy of the foregoing document **STIPULATION RE: (1) LIMITED OPPOSITION TO MOTION TO APPROVE AND AUTHORIZE THE DEBTOR TO ENTER INTO SUPPLEMENTAL CONSENT ORDER WITH THE UNITED STATES COMMODITY FUTURE TRADING COMMISSION [DKT. NO. 666]; AND (2) LIMITED OPPOSITION TO MOTION FOR ORDER (I) APPROVING COIN VALUATIONS AND DISTRIBUTION SCHEDULE OF ERROR COINS TO VICTIM/ CREDITORS, AND (II) GRANTING RELATED RELIEF PURSUANT TO SECTIONS 105 AND 363 OF THE BANKRUPTCY CODE [DKT. NO. 667]** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **June 29, 2017**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On **June 29 2017**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **June 29, 2017**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

***Via Federal Express***

The Honorable Erithe A. Smith  
United States Bankruptcy Court - Central District of California  
Ronald Reagan Federal Building and Courthouse  
411 West Fourth Street, Suite 5040 / Courtroom 5A  
Santa Ana, CA 92701-4593

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

June 29, 2017

Date

Janice G. Washington

Printed Name

/s/Janice G. Washington

Signature

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):**

Wesley H Avery on behalf of Consumer Privacy Ombudsman Wesley H Avery  
wamiracle6@yahoo.com, wavery@rpmlaw.com

Candice Bryner on behalf of Interested Party Candice Bryner  
candice@brynerlaw.com

Philip Burkhardt on behalf of Other Professional Karen Duddleston  
phil@burkhardtandlarson.com, stacey@burkhardtandlarson.com

Stephen L Burton on behalf of Attorney Stephen L. Burton  
steveburtonlaw@aol.com

Frank Cadigan on behalf of U.S. Trustee United States Trustee (SA)  
frank.cadigan@usdoj.gov

Linda F Cantor, ESQ on behalf of Other Professional Pachulski Stang Ziehl & Jones LLP  
lcantor@pszjlaw.com, lcantor@pszjlaw.com

Linda F Cantor, ESQ on behalf of Trustee R. Todd Neilson (TR)  
lcantor@pszjlaw.com, lcantor@pszjlaw.com

David L Gibbs on behalf of Creditor Kenneth W Stach  
david.gibbs@gibbslaw.com, ecf@gibbslaw.com

Nancy S Goldenberg on behalf of U.S. Trustee United States Trustee (SA)  
nancy.goldenberg@usdoj.gov

Lawrence J Hilton on behalf of Creditor Jeffrey Roth  
lhilton@oneil-llp.com, ssimmons@oneil-llp.com; kdonahue@oneil-llp.com

John H Kim on behalf of Creditor Ford Motor Credit Company LLC  
jkim@cookseylaw.com

R. Todd Neilson (TR)  
rneilson@brg-expert.com, sgreenan@brg-expert.com; rneilson@ecf.epiqsystems.com; ntroszak@brg-expert.com

Jason S Pomerantz on behalf of Trustee R. Todd Neilson (TR)  
jspomerantz@pszjlaw.com, jspomerantz@pszjlaw.com

Nanette D Sanders on behalf of Creditor Levon Gugasian  
becky@ringstadlaw.com

Richard C Spencer on behalf of Interested Party Courtesy NEF  
rspencer@rspencerlaw.com

United States Trustee (SA)gov

**2. SERVED BY UNITED STATES MAIL**

***Trustee***

Weneta M. Kosmala  
Weneta M. Kosmala Law Offices  
3 MacArthur Place, #760  
Santa Ana, CA 92707

Benjamin Bain-Creed  
Assistant United States Attorney  
Florida Bar #0021436  
Suite 1650, Carillon Building  
227 West Trade Street  
Charlotte, North Carolina 28202

***Counsel for Interested Parties Levon  
Gugasian and Armen Haig Gugasian***

Roger F. Friedman, Esq.  
Rutan & Tucker, LLP  
611 Anton Boulevard, 14th Floor  
Costa Mesa, CA 92626

Richard P. Foelber  
Chief, Office of Cooperative Enforcement  
U.S. Commodity Futures Trading  
Commission  
1155 21<sup>st</sup> Street, NW  
Washington, D.C. 20581

Nicholas R. Troszak  
Associate Director  
Berkeley Research Group, LLC  
2049 Century Park East  
Suite 2525  
Los Angeles, CA 90067

***Attorneys for Debtor***

James F. Wyatt, III  
Wyatt & Blake, LLP  
435 East Morehead Street  
Charlotte, NC 28202

***Laurence P Nokes on behalf of Interested***

***Party*** John Frankel  
Nokes & Quinn  
410 Broadway St Ste 200  
Laguna Beach, CA 92651

Brent Murdoch  
Murdoch & Morris, LLP  
114 Pacifica, Ste. 320  
Irvine, CA 92618

***Interested Party***

Frye & Hsieh  
Douglas J Frye Esquire  
24955 Pacific Coast Highway # A201  
Malibu, CA 90265

***Counsel for Creditor Levon Gugasian***

Nanette D. Sanders, Esq.  
Ringstad & Sanders LLP  
2030 Main Street, Suite 1600  
Irvine, CA 92614